CONFERENCE ON DISARMAMENT

CD/1219
25 August 1993

Original: ENGLISH

REPORT OF THE AD HOC COMMITTEE ON EFFECTIVE INTERNATIONAL ARRANGEMENTS TO ASSURE NON-NUCLEAR-WEAPON STATES AGAINST THE USE OR THREAT OF USE OF NUCLEAR WEAPONS

I. INTRODUCTION

1. At its 637th plenary meeting on 21 January 1993, the Conference on Disarmament decided to re-establish for the duration of its 1993 session an Ad Hoc Committee to continue to negotiate with a view to reaching agreement on effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons (CD/1121). This decision on the re-establishment of the Ad Hoc Committee required that the Committee would report to the Conference on the progress of its work before the conclusion of the annual session.

II. ORGANIZATION OF WORK AND DOCUMENTS

2. At its 640th plenary meeting on 2 February 1993, the Conference on Disarmament appointed Ambassador Romulus Neagu of Romania as Chairman of the Ad Hoc Committee. Mr V. Bogomolov, Political Affairs Officer, United Nations Office for Disarmament Affairs, served as Secretary of the Ad Hoc Committee.

3. Between 5 March and 24 August 1993 the Ad Hoc Committee held 13 meetings. The Chairman also conducted informal consultations on specific concrete aspects of the agenda item, as well as several meetings with Group coordinators, and other representatives.

4. In addition to the documents of the previous sessions, the following working papers were submitted to the Ad Hoc Committee:

CD/SA/WP.15	Compilation of Basic Documents relating to the Question of Effective International Arrangements to Assure Non-Nuclear-Weapon States against the Use or Threat of Use of Nuclear Weapons
CD/SA/WP.16	Chairman's Discussion Paper - Elements of a "Common Formula" of Negative Security Assurances (NSA)

CD/SA/WP.17 Finland - Views on Effective International Arrangements to Assure Non-Nuclear-Weapon States Against the Use or Threat of Use of Nuclear Weapons

III. SUBSTANTIVE WORK

5. At the beginning of the annual session, the Chairman of the Ad Hoc Committee conducted informal consultations with the delegations and the Group Coordinators to determine if the views of members had changed, as well as on the best way to address this item. Those consultations revealed that all delegations continued to attach importance to the agenda item and were ready to engage in a search for a mutually acceptable solution of the issue.

6. During the meetings of the Ad Hoc Committee, various Groups and individual delegations reaffirmed or further elaborated their respective positions, the detailed descriptions of which can be found in the previous annual reports of the Committee, related Conference documents and Working Papers, and Plenary Records.

7. The Ad Hoc Committee held a series of official meetings and intensive informal consultations during which it addressed a number of issues related to negative security assurances.

8. The following issues were raised by various delegations and were considered without prejudice to the respective positions of delegations:

(a) the question of negative security assurances to non-nuclear-weapon States corresponding to the interests of the entire international community and contributing to the process of nuclear disarmament and to the reinforcement of the regime of non-proliferation of nuclear weapons;

(b) the appropriateness of a confirmation by nuclear-weapon States of positive assurances, together with negative assurances, as a follow-up to Security Council Resolution 255 of 1968;

(c) the conclusion of negative security assurances in the form of a multilaterally negotiated treaty;

(d) an agreement on a single common formula of negative security assurances as a contribution to the conclusion of such a treaty;

(e) the question of exemptions in a common formula for negative security assurances;

(f) a structure of a future treaty on negative security assurances;

(g) verification of a future treaty on negative security assurances; and

(h) the relationship between security assurances and non-proliferation commitments.

9. Many delegations continued to believe that nuclear disarmament and the complete elimination of nuclear weapons was the most effective guarantee against the use or threat of use of nuclear weapons. They believed that until the goal of nuclear disarmament was achieved on a universal basis, it was imperative for the international community to develop effective and unconditional measures to assure the security of non-nuclear-weapon States against the use or threat of use of nuclear weapons from any quarter. Those delegations reaffirmed the need to find a common approach, acceptable to all, to be included in a multilateral agreement of a legally-binding character.

10. Many delegations, members of the Group of 21, were of the view that the positions of most of the nuclear-weapon States had been found to be unsatisfactory in addressing the negative security assurances issue in a comprehensive manner, hence the calls on those nuclear-weapon States to review their positions. These delegations stressed that nuclear-weapon States had an obligation to guarantee, in clear and categorical terms and in an international legally-binding form, that non-nuclear-weapon States would not be attacked or threatened with nuclear weapons. They underlined that the existing assurances and unilateral declarations fell far short of the credible assurances sought by non-nuclear-weapon States and in order to be effective, these assurances should be unconditional, without qualification, not subject to divergent interpretation and unlimited in scope, application and duration and based on a "common formula" approach. In the view of these delegations, Article 51 of the United Nations Charter could not be invoked to justify the use or threat of use of nuclear weapons in the exercise of the right of self-defence in the case of armed attack not involving the use of nuclear weapons, since nuclear war would threaten the very survival of mankind. Negative security assurances could not be predicated upon, nor could they be used as a pretext for demanding discriminatory obligations or "reciprocal guarantees" from non-nuclear-weapon States.

11. The delegation of India, while arguing that the only credible guarantee against the use or threat of use of nuclear weapons lay in the total elimination of such weapons, recognised the importance of negative security assurances. With regard to the conditions propounded for negative security assurances, the delegation stated that the United Nations Charter should not be invoked for use of nuclear weapons. The NPT is a discriminatory instrument which does not prevent the nuclear-weapon States from retaining or improving their nuclear arsenals. Similarly, nuclear-weapon States themselves are not,

nor can they in future be a part of a nuclear-weapon-free zone without renouncing their nuclear weapons. Also, IAEA full-scope safeguards were again optional for the nuclear-weapon States. Accordingly, there was no rationale for imposing these conditionalities as a pre-requisite for negative security assurances.

12. The delegation of Egypt noted that, as a result of the recent transformations and positive developments in the international political climate, there emerged an urgent need for nuclear-weapon States to review their unilateral security declarations in a comprehensive manner. It further noted that those non-nuclear-weapon States parties to the NPT and/or to regional nuclear-weapon-free zones or who had signed a comprehensive safeguards agreement with the IAEA, were entitled to unconditional, legally-binding comprehensive security assurances which would not be limited in scope, framework or duration.

13. The delegations of the Group of 21, States parties to the NPT, stressed that there was an urgent need for a multilateral agreement on NSAs, as progress on this issue would decisively influence the outcome of the 1995 NPT Review and Extension Conference.

14. The delegations of some other States parties to the NPT stressed that making the outcome of the 1995 Conference the hostage of any other development would endanger the whole Treaty.

15. The delegation of Nigeria noted that the Committee this year was unable to break the impasse in the negotiations because of the lack of political will on the part of some nuclear-weapon States. Stating that there should be a spirit of give and take in the negotiations, Nigeria indicated that nuclear-weapon States should not insist on imposing upon non-nuclear-weapon States a set of disparate, non-enforceable and unilateral declarations. It reiterated the main elements which could form a generally acceptable agreement (see CD/967 of 14 February 1990).

16. The delegation of Kenya further stated that, with the change in the global political situation, it was not convinced of the need for any policy that envisaged the use of nuclear weapons. In its view, the circumstances at present would seem favourable for the conclusion of a Treaty on NSAs. Kenya wholeheartedly supported the review and extension of the NPT in 1995. It stressed that the following issues would receive priority in considering the period, or periods, by which the NPT should be extended: the conclusion of a Treaty on NSAs, the conclusion of a CTBT, the fulfillment of Article VI of the

NPT, the halting of the production of fissionable material for weapon purposes, as well as other issues related to nuclear disarmament.

17. One delegation from the Group of 21 further stated that in its view the existing unilateral negative security assurances by the nuclear-weapon States were not legally-binding and, with the exception of the guarantee offered by the People's Republic of China, were not adequate. These assurances, therefore, needed to be improved upon, both in terms of their binding character and their scope. The delegation was also of the view that there should be a balance and reciprocity between the obligations of nuclear-weapon States and those of non-nuclear-weapon States. To enjoy legally-binding negative security assurances, non-nuclear-weapon States should make legally-binding commitments not to acquire nuclear weapons, i.e. they have to be States parties to the NPT, members of regional nuclear weapon-free zones, or have to make other forms of legally-binding commitments with full compliance with IAEA safeguards. Non-nuclear-weapon States who are not States parties to the NPT or other forms of legally-binding non-nuclear commitments should also be taken into account.

18. The delegation of Hungary, stressing the weight of proliferation concerns, expressed its conviction that the NPT-regime would greatly benefit from real progress in the field of negative security assurances. Reiterating its preference for a multilateral, legally-binding instrument, it also pointed out that the attainment of the goal of creating a solid system of security assurances should not be prevented by disagreement on form, and other options could be considered as well. It underlined the function of legally-binding multilateral non-nuclear undertakings and full compliance with these undertakings in the process of defining the circle of potential beneficiaries of the system. It also expressed the view that the mere fact of being a member of a military alliance was irrelevant in the context of negative security assurances.

19. A number of delegations addressed the issue of the responsibility of the United Nations in maintaining international peace and security, which had guided the Security Council to adopt its Resolution 255 in 1968. They supported the idea of a Security Council resolution on stronger assurances of solidarity and assistance to non-nuclear-weapon States in case of nuclear aggression.

20. The delegation of France considered that the issue of negative security assurances was all the more important and complex in that it concerned at the

same time compliance with commitments, non-proliferation and the protection of vital security interests. Several proposals had been put forward for the negotiation of a legally-binding agreement on this issue. However, in view of the reservations expressed in the Ad Hoc Committee about the reciprocal nature of the obligations of nuclear and non-nuclear-weapon States on which such an approach would be based, it was the view of the French delegation that one of the possible avenues was to explore the possibility of a harmonisation of the existing unilateral declarations of the nuclear-weapon States providing for balanced commitments and taking into account the requirements of non-proliferation and of the protection of security interests.

21. Some delegations disagreed with the view that negative security assurances should be unconditional. They reaffirmed that one essential condition would always remain in place, i.e. that negative security assurances should be given only to the States which had themselves renounced the nuclear option.

22. The delegation of Finland, a non-member of the Conference on Disarmament, was of the view that negative security assurances should be global in scope, uniform, unconditional and comprehensive, and that such guarantees should ensure the equality of all States that have renounced the acquisition of nuclear weapons through the NPT or other legally-binding multilateral instruments within the non-proliferation regime.

23. The delegation of Germany offered some ideas on how to overcome the impasse in the negotiations. It suggested that solutions should be found to a number of issues, such as the assumption that renouncing the nuclear-weapon option required compensation as well as what might constitute an acceptable balance between the rights and obligations of non-nuclear-weapon and nuclear-weapon States. It was also justified to put on the scale other relevant obligations and efforts undertaken by some nuclear powers which were beneficial to all non-nuclear-weapon States, for example, security to their allies, an important role played by the same nuclear-weapon States in assisting the Russian Federation in destroying nuclear weapons safely, as well as a variety of efforts undertaken by the very same States to contribute to a development on the territory of the former Soviet Union which would not lead to additional nuclear powers. Taking account of recent political developments, more emphasis should be given to broadening the basis of common understanding and updating arguments being used in the Ad Hoc Committee.

24. In the framework of the debate on the legal value of the unilateral declarations issued by nuclear-weapon States, the delegation of Italy, quoting

the 1974 judgement by the International Court of Justice in the nuclear tests case stated that, under international law, unilateral declarations might contain a binding obligation insofar as a clear commitment can be drawn by their wording.

25. The delegation of China was of the view that the conclusion of an international agreement on the non-use or threat of use of nuclear weapons against non-nuclear-weapon States would be an important measure in preventing the outbreak of nuclear war, prior to the realization of complete prohibition and thorough destruction of nuclear weapons. It reiterated China's commitment that at no time and under no circumstances would China be the first to use nuclear weapons, and that China would not use or threaten to use nuclear weapons against non-nuclear-weapon States and nuclear-weapon-free zones. It advocated negotiations on, and conclusion of, an international agreement on the non-first-use of nuclear weapons, and on the non-use or threat of use of nuclear weapons against non-nuclear-weapon States and nuclear-weapon-free zones.

IV. CONCLUSIONS AND RECOMMENDATIONS

26. The Ad Hoc Committee reaffirmed that non-nuclear-weapon States should be effectively assured by the nuclear-weapon States against the use or threat of use of nuclear weapons pending effective measures of nuclear disarmament. The formal debates and informal consultations demonstrated the readiness of the delegations to continue the search for a common approach on the substance of negative security assurances. However, the complex nature of the issues involved, as well as, inter alia, differing perceptions of security interests continued to impede the work on the substance of the effective arrangements and the search for a common formula.

27. Against this background, the Ad Hoc Committee continued to recognize the importance of the question of effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons and felt that there was a need to step up efforts in the light of recent transformations in the international political climate and other positive developments, to agree on a common approach, and to proceed to negotiations with a view to reaching agreement as stated in its mandate as soon as possible. Accordingly, there was an agreement on the recommendation that the Ad Hoc Committee should be re-established at the beginning of the 1994 session.